

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

May 17, 2007

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, May 17, 2007, at 9:30 am, in the Human Resources Training Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Darrell Downing, Chair; Don Anderson, Vice-Chair; John W. McKay, Jr. (In @10:25 A.M.); Bob Aldrich; Elizabeth Bishop; Don Sherman; Bud Hentzen (In @9:48 A.M.); Morris K. Dunlap; Michael Gisick and G. Nelson Van Fleet. Hoyt Hillman, Bill Johnson, Ron Marnell and M.S. Mitchell were not present. Staff members present were: Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner and Maryann Crockett, Recording Secretary.

CHAIRMAN DOWNING stated that there was no sound system and asked people to please speak loudly and clearly, and to hold down side conversations.

1. Approval of the May 3, 2007, MAPC minutes.

MOTION: To approve the Minutes of the May 3, 2007, MAPC Meeting.

DUNLAP moved, **ALDRICH** seconded the motion, and it carried (8-0).

2. **STAR Bond Plan**, finding of consistency with the Comprehensive Plan. Presented by Rob Raine, Assistant Finance Director, City of Wichita.

Star Bond Plan.

ROB RAINE, ASSISTANT DIRECTOR OF FINANCE, said the Planning Commission was being asked to re-affirm its March, 2003, action when the WaterWalk Plan was reviewed, and it was found that the City's redevelopment project plan was consistent with the Comprehensive Plan. He stated that "STAR" was an acronym for "sales tax revenue" bonds, and explained that STAR bonds were a special variety of tax increment financing (TIF). He said STAR bond projects must be located within redevelopment districts established pursuant to the TIF statutes, and that they are paid from the incremental increase in state and local retail sales tax revenue generated within the district. He said the projects are approved and authorized by the Kansas Secretary of Commerce, after they have been approved at the local level, which includes approval by the MAPC and City Council. He said during this process, the legislature determined that STAR bonds could no longer be used for building construction so the City came up with an alternative plan and expanded the East Bank Redevelopment District to include the River Corridor Project improvements, such as the new Keeper of Plains plaza, walking and biking paths, scenic overlooks, an outdoor amphitheater and other public infrastructure and amenities on the banks of the Arkansas River. He mentioned that the legislature gave Wichita special consideration and "grand fathered" in the proposed City project. He referred Commissioners to the marketing and feasibility study material included in the project report. He said it was projected that the ultimate project would generate at least \$80 Million in retail sales annually. He said that, in addition to the public and private investment, the project total should equal approximately \$155.8 Million. He said the City was requesting \$13 million in STAR bonds. He said the projected revenues are in excess of two and one half times the amount needed for debt service on the bonds, and it was estimated that the bonds could be paid off as early as 2012. He mentioned that Tom Johnson, WaterWalk project manager, was present to answer any questions. He concluded by requesting that the MAPC find that the STAR Bond Project Plan was consistent with the Comprehensive Plan and approve the resolution.

ALDRICH asked if the \$13 Million STAR bond request was an increment, and could it be amended down the road.

RAINE said it would be difficult to go back and seek additional funds because Gander Mountain is already built. He explained that Gander Mountain has pledged \$8 million in revenues and that the \$5 million was a buffer.

DUNLAP requested clarification of the financial page, which indicated that \$6 million was pledged by the destination retailer (Gander Mountain). He also indicated that he could challenge some of the assumptions made by the consultants concerning estimated revenues and bond pay out.

RAINE explained that \$1 million was for public art and \$1 million was for restaurants.

MOTION: That the STAR Bond Plan is in compliance with the Comprehensive Plan and adopt the resolution.

ALDRICH moved, **BISHOP** seconded the motion, and it carried (8-0).

3. Consideration of Subdivision Committee recommendations from the meeting of May 10, 2007.

3-1. **SUB 2007-26: One-Step Final Plat -- NORTHRIDGE INDUSTRIAL SECOND ADDITION,** located west of Hillside and on the north side of 37th Street North.

NOTE: This is an unplatted site located within the City.

STAFF COMMENTS:

- A. City Water Utilities Department comments that City water is available. The applicant shall guarantee the extension of sewer lateral and include in lieu of assessment fees for sewer main with the petition. Applicant also needs to contact the owners of the existing buildings addressed 2402 and 2416 E 37th St N regarding the sewer extension because these properties are currently connected to sewer and have very long service lines and a private lift station. An off-site easement may be needed for the sewer extension.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering has approved the applicant's drainage plan. The reserve width needs to be increased 20 feet to the west. The minimum pad may need to be revised. The applicant is advised that a Letter of Map Revision needs to be completed prior to development.
- D. The plat does not include access controls. A note shall be included on the plat, "The location of all access openings shall be in accordance with minimum spacing requirements of the Wichita/Sedgwick County Access Management Standards." Complete access control is needed along the railroad.
- E. County Surveying advises that the found monuments need identified as to size and type.
- F. County Surveying advises that Monuments need found or set along the plat boundary.
- G. County Surveying advises that any minimum pad elevations need to also be in NGVD29 datum.
- H. The plat's text shall note the dedication of the streets to and for the use of the public.
- I. Provisions shall be made for ownership and maintenance of the proposed reserves. A covenant shall be submitted regarding ownership and maintenance responsibilities.
- J. For those reserves being platted for drainage purposes, the required covenant that provides for ownership and maintenance of the reserves, shall grant to the appropriate governing body the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- K. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or

all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.

- L. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed.
- M. "A Lot and Block" shall be referenced in the plat's text.
- N. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- O. GIS has requested that 37th Street North be labeled as "37th St N".
- P. The City Council certification needs to be revised to reference Carl Brewer, Mayor.
- Q. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- R. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- S. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- T. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- U. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- V. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- W. Perimeter closure computations shall be submitted with the final plat tracing.
- X. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendation.

ALDRICH moved, **ANDERSON** seconded the motion, and it carried (8-0).

- 3-2. **SUB 2007-27: One-Step Final Plat -- NORTHRIDGE INDUSTRIAL THIRD ADDITION**, located south of 37th Street North and west of Hillside.

NOTE: This is an unplatted site located within the City.

STAFF COMMENTS:

- A. City Water Utilities Department comments that sanitary sewer is available to serve the site but only at the manhole. The easement should be shown more clearly. Water needs to be extended to the south property line of the plat.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering has approved the applicant's drainage plan. An off-site drainage easement is needed from the property to the east. Minor revisions are needed to the drainage plan.
- D. The right-of-way width needs to be denoted for Poplar.
- E. City Engineering, Traffic Engineering, and City Fire Department requests a dedication of street right-of-way be established for a temporary turnaround at the south property line and a guarantee be submitted for paving Poplar Street to the industrial street standards extending to the turnaround.
- F. County Surveying advises that found monuments (section corners) need identified as to size and type
- G. County Surveying advised that if there is a minimum pad elevation, it needs to also be in NGVD29 datum.
- H. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- I. GIS has requested the street be labeled as "36th Cir N". "37th St N" shall also be labeled.
- J. The City Council certification needs to be revised to reference Carl Brewer, Mayor.
- K. The platton's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- L. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- M. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- N. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- O. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- P. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of

Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

- Q. Perimeter closure computations shall be submitted with the final plat tracing.
- R. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendation.

ALDRICH moved, **ANDERSON** seconded the motion, and it carried (8-0).

- 3-3. **SUB 2007-43: One-Step Final Plat -- KANSAS STATE BANK ADDITION,** located east of Maize Road and north of Kellogg.

NOTE: This is a replat of a portion of the Verda Vista Addition. The site has been approved for a zone change (ZON 2007-07) from SF-5, Single-Family Residential to GO, General Office. A Conditional Use (CON 2007-09) has also been approved for the site for a financial institution.

STAFF COMMENTS:

- A. Municipal services are available to serve the site.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. City Engineering has approved the applicant's drainage plan. Onsite detention is needed. An off-site drainage easement is needed from the property to the east.
- D. Access controls have been platted in accordance with the site plan submitted for Conditional Use approval. The plat proposes two access openings along Maize Road.
- E. The opening along Maize on the north line of the property shall permit cross-lot access for the benefit of the abutting property to the north, if and when said lot is developed for non-residential use. A restrictive covenant or agreement shall be provided addressing this condition.
- F. The applicant shall guarantee the closure of any driveway openings located in areas of complete access control or that exceed the number of allowed openings. A Driveway Closure Certificate in lieu of a guarantee may be provided.
- G. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- H. A 40-foot contingent street dedication is requested along the south property line, which would become effective upon the non-residential development of the property to the east.
- I. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- J. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.

- K. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- R. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: To approve subject to staff recommendation.

ALDRICH moved, **ANDERSON** seconded the motion, and it carried (8-0).

❖ **PUBLIC HEARINGS – VACATION ITEMS**

- 4-1. VAC 2007-13: Request to vacate a portion of a platted setback.** generally located east of Hillside Avenue, north of Murdock Avenue, southeast of Holyoke and Orchard Avenues.

OWNER/AGENT: Wesley Medical Center, LLC
Certified Engineering Design c/o Harlan Foraker

LEGAL DESCRIPTION: Generally described as that portion of the platted 20-foot street side yard building setback, located on Lot 1, Block 1, Wesley Medical Center 5th Addition, which runs parallel to south end of the dead end portion of Holyoke Avenue, all in Wichita, Sedgwick County, Kansas.

LOCATION: Generally located east of Hillside Avenue, north of Murdock Avenue and southeast of Orchard and Holyoke Avenues (WCC #I)

REASON FOR REQUEST: Additional room for development

CURRENT ZONING:

The site and the abutting eastern and northern properties are zoned "B" Multi-family Residential. The adjacent northern properties are zoned "TF-3" Two-family Residential. A western portion of the site is zoned "GO" General Office.

The applicant proposes to vacate the described portion of the platted 20-foot street side yard setback. The Unified Zoning Code's (UZC's) minimum street side setback for the "B" Multi-family Residential zoning district is 5-feet. Because of the site location on the dead end portion of Holyoke the compatibility setback standards do not apply. There is a platted easement that runs through the platted setback and a water line within the easement: the easement will be retained. No other utilities are within the setback. The Wesley Medical Center 5th Addition was recorded with the Register of Deeds April 1, 1993.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval of the vacation of the described portion of the platted setback with conditions.

A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:

1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time April 26, 2007 which was at least 20 days prior to this public hearing.
2. That no private rights will be injured or endangered by the vacation of the above-described platted setback and the public will suffer no loss or inconvenience thereby.
3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of the platted setback, described in the petition should be approved with conditions:

1. Provide Planning with a legal description of the approved vacated portion of the setback on a Word document via e-mail. The new setback will be per the UZC's minimum street side yard setback for the "B" zoning district.
2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense. If needed provide easements for utilities. Retain the existing platted easement that intersects the platted setback,
3. All improvements shall be according to City standards and at the applicant's expense.
4. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Provide Planning with a legal description of the approved vacated portion of the setback on a Word document via e-mail. The new setback will be per the UZC's minimum street side yard setback for the "B" zoning district.
2. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense. If needed provide easements for utilities. Retain the existing platted easement that intersects the platted setback.

3. All improvements shall be according to City standards and at the applicant's expense.
4. **Per** MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

MOTION: To approve subject to staff recommendation.

ANDERSON moved, **BISHOP** seconded the motion, and it carried (8-0).

HENTZEN (In @ 9:48 A.M.)

- 4-2. VAC 2007-14: Request to vacate a floodway.** generally located west of Webb Road, north of 29th Street North and on the north side of Cypress Street.

APPLICANT/OWNER: Yellow Book Sales & Distribution

AGENT: MKEC Engineering Consultants Inc c/o Gene Rath

LEGAL DESCRIPTION: Generally described as the platted floodway as recorded on Lot 8, Block 2 Mediterranean Plaza Addition, Wichita, Sedgwick County Kansas.

LOCATION: Generally located northwest of the 29th Street North – K-96 interchange, and northeast of the Cypress Street – 29th Street North intersection.

REASON FOR REQUEST: Development of the site

CURRENT ZONING: Subject property and properties to the west, east and north are zoned "LI" Limited Industrial. Property to the south is zoned "GO" General Office.

The applicant is requesting consideration to vacate the described platted floodway. A 50-foot wide portion of the platted floodway that was located on the abutting Lot 9, Block 2, Mediterranean Plaza Addition was vacated in 2003: VAC2003-35. There was also an associated Lot Split, SUB2003-38, with VAC2003-35, which required a Restrictive Covenant that establishes ownership of a required (condition of VAC2003-35) floodway reserve and the responsibility of maintenance of the reserve. A 30-foot sanitary sewer easement abuts the east portion of the platted floodway. The applicant has provided e-mails from Kansas Gas Service, Westar, Cox, and AT&T, which state that they have no utilities in the platted floodway. The site is in neither a FEMA Floodway nor FEMA Flood zone. The Mediterranean Plaza Addition was recorded in 1988.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works and other utility representatives, Planning Staff recommends approval to vacate that portion of platted floodway as described in the legal description with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time April 26, 2007 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted floodway and the public will suffer no loss or inconvenience thereby.

3. In justice to the petitioner, the prayer of the petition ought to be granted.

B. Therefore, the vacation of the portion of the platted floodway described in the petition should be approved with conditions:

1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant and at the applicant's expense.
2. All improvements shall be according to City Standards and at the expense of the applicant, including any drainage improvements/infrastructure. If necessary provide all plans needed by Public Works/Storm Water and any guarantees to Public Works to ensure improvements will be completed.
3. If needed provide a floodway reserve or easement per the approval of the Public Works/Storm Water Engineer and provide a Restrictive Covenant that establishes ownership of the floodway reserve and the responsibility of maintenance of the reserve.
4. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant and at the applicant's expense.
2. All improvements shall be according to City Standards and at the expense of the applicant, including any drainage improvements/infrastructure. If necessary provide all plans needed by Public Works/Storm Water and any guarantees to Public Works to ensure improvements will be completed.
3. If needed provide a floodway reserve or easement per the approval of the Public Works/Storm Water Engineer and provide a Restrictive Covenant that establishes ownership of the floodway reserve and the responsibility of maintenance of the reserve.
4. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

MOTION: To approve subject to staff recommendation.

ALDRICH moved, **ANDERSON** seconded the motion, and it carried (8-1).

BISHOP – No.

❖ **PUBLIC HEARINGS**

5. **Case No.: CUP2007-16** – YMCA of Wichita (owner); MKEC c/o Brian Lindebak Request DP-276 Amendment #1 to permit parking area, ancillary, on property zoned "SF-5" Single-family Residential. The applicant proposes to add a large parking lot, to be located on Parcel 2, to serve as additional parking for the YMCA facility located on Parcel 1.

Lots 1 and 2, Block 1 and Reserve A, Northwest YMCA Addition, Wichita, Sedgwick County, Kansas.
Generally located Northwest corner of 21st Street North and 135th Street West.

BACKGROUND: The applicant (YMCA) requests Amendment #1 to DP-276 Northwest YMCA Addition Community Unit Plan to construct ancillary parking on Parcel 2, zoned "SF-5" Single-family Residential. The ancillary parking would be for the YMCA's facilities located on Parcel 1, which is zoned "LC" Limited Commercial and is developed with a large indoor recreation, a swimming pool, outside sports fields and a large parking lot. The YMCA would like more parking for peak usage periods. The proposed site plan shows the parking lot located in the southwest portion of Parcel 2, west of the high voltage overhead electrical transmission lines and south of the floodway easement.

Ancillary parking is allowed in the SF-5 zoning district only by conditional use, which can be met through the CUP amendment process for property located within a CUP. It would be subject to SF-5 site development for setbacks, landscaping, etc.

Originally the applicant requested LC zoning on the entire CUP. The Sedgwick County Board of Commissioners (ZON2004-20/CUP2004-17) only approved LC zoning for Parcel 1, retaining "SF-20" Single-family Residential zoning on Parcel 2 and Parcel 3 due to opposition of residents to commercial use near existing residential areas located east of 135th Street West and to concerns about flooding on surrounding properties and the Cowskin Creek. Upon annexation (May 18, 2006), the SF-20 zoning converted to SF-5.

Parcel 2 is zoned "SF-5" Single-family Residential and is undeveloped except for a high voltage transmission line that bisects the parcel just east of the proposed location of the ancillary parking lot. Parcel 2 currently is restricted to those uses permitted by right in the SF-20 zoning district. Parcel 3 is zoned SF-5 and is undeveloped except for drainage/detention and the transmission line and is restricted to drainage and open space purposes and open space and outdoor recreation uses associated with Parcel 1.

The property to the north and west is zoned SF-20 and developed with suburban estates or is in agricultural use. Forest View Addition is located to the east of 135th Street West and has residential lots approximately two-third to three-fourth of an acre in size. The property south of 21st Street North includes a church and some suburban residential on property zoned SF-20 and a future church site on property zoned SF-5. The property to the southeast of the intersection is zoned LC and SF-5 and is developed by the City of Wichita for utility purposes.

CASE HISTORY: The Northwest YMCA Addition plat was recorded March 10, 2005. DP-276 Northwest YMCA Addition Community Unit Plan was approved August 18, 2004.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-20	Agriculture, suburban residential
SOUTH:	SF-20, SF-5, LC	Church, suburban residential, utility
EAST:	SF-20	Single-family residential
WEST:	SF-20	Agriculture, suburban residential

PUBLIC SERVICES: The property is located along 21st Street North, a principal arterial paved with two lanes and open shoulders. Four access points (three full movement and one right-in/right-out only) are allowed along 21st Street North but none of these points are within the area proposed for the ancillary parking lot. Access would be via the main opening to the YMCA facility. 135th Street West is a minor arterial paved with two lanes and open shoulders. One access point along 135th Street West is allowed.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "major institutional." The institutional category comprises facilities of significant size and scale and with uses such as governmental, libraries, schools, cemeteries, churches, and hospitals. The YMCA is taxed as a nonprofit organization but its use is similar to commercial health clubs and exercise facilities except for the youth sports programs. The use of the southwest portion of Parcel 2 for ancillary parking to support Parcel 1, zoned LC, would be in conformance to plans and policies so long as the parking lot is built in accordance with the underlying site development requirements for ancillary parking in the SF-5 zoning district.

RECOMMENDATION: Based on the information available prior to the public hearings, planning staff recommends that the DP-276 Amendment #1 be approved as follows:

1. General Provision #3B shall be revised to state: "Parcel 2 shall be permitted those uses allowed by right in the SF-5 zoning district; in addition, ancillary parking for uses in Parcel 1 shall be permitted within an area bounded on the east by the transmission easement, on the north by the floodway easement, on the west by Parcel 1 and on the south by the 25 foot building setback line of the Unified Zoning Code for the SF-5 district."
2. General Provision #5A shall be revised to add the statement "For any building permit submitted for new construction and/or expansion of building(s) or site improvement(s) including parking facilities subsequent to Amendment #1, the landscaped street yard and the parking lot landscaping and screening shall be developed in compliance with these requirements or the Landscape Ordinance of the City of Wichita, whichever requirement is greater."
3. General Provision #9 shall be revised to state: "Parcel 2 signs shall conform to the SF-5 zoning district."
4. General Provision #12A shall add "Ancillary parking in Parcel 2 shall be restricted to the area defined in General Provision 3A."
5. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
6. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
7. The applicant shall submit 4 revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by MAPC, or the Governing Body, if required, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Parcel 1 is zoned "LC" Limited Commercial and is developed with indoor recreation, a swimming pool, outside sports fields and a large parking lot. Parcel 2 is zoned "SF-5" Single-family Residential and is undeveloped except for a high voltage transmission line that bisects the parcel just east of the proposed location of the ancillary parking lot. Parcel 3 is zoned SF-5 and is undeveloped except for drainage/detention and the transmission line. The property to the east, north and west is zoned SF-20 and developed in suburban estates or is in agricultural use. The property south of 21st Street North includes a church and some suburban residential on property zoned SF-20 and a future church site on property zoned SF-5. The property to the southeast of the intersection is zoned LC and SF-5 and is developed by the City of Wichita for utility purposes.
2. The suitability of the subject property for the uses to which it has been restricted: It is unlikely the property would be developed with conventional residential use given its location between a major recreation facility, a flood easement, a transmission line and a major arterial.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Impacts should be minimal if confined to the recommended boundaries and developed in accordance to the Unified Zoning Code and Landscape Ordinance standards.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "major institutional." The institutional category comprises facilities of significant size and scale and with uses such as governmental, libraries, schools, cemeteries, churches, and hospital s. The YMCA is taxed as a nonprofit organization but its use is similar to commercial health clubs and exercise facilities except for the youth sports programs. The use of the southwest portion of Parcel 2 for ancillary parking to support Parcel 1, zoned LC, would be in conformance to plans and policies so long as the parking lot is built in accordance with the underlying site development requirements for ancillary parking in the SF-5 zoning district.
5. Impact of the proposed development on community facilities: The additional parking could encourage additional usage of the YMCA facilities, which would generate a slight increase in traffic. No additional access points are proposed or allowed within the area defined for the ancillary parking, which will mitigate traffic conflicts from multiple access points. No other impacts on community facilities are anticipated.

6. Opposition or support of neighborhood residents: Several property owners indicated that they were not in opposition so long as the parking lot was confined to the area west of the overhead electric transmission line and did not impact flooding.

DONNA GOLTRY, PLANNING STAFF said the applicant had asked to reduce the parking lot setback to 10 feet. She explained that in the SF-5 Single-family Residential district parking is not permitted in the front setback and this site regulation cannot be waived by MAPC. It may be reduced by administrative adjustment to no less than eight feet in width in the SF-5 district or would become an issue to be adjudicated by the Board of Zoning Appeals (BZA).

GREG ALLISON, MKEC ENGINEERING, agent for the applicant said they are in agreement with staff comments. He said it was his client's intention to go ahead and apply for an administrative adjustment.

BISHOP asked if they had investigated the possibility of using surfacing that was permeable? She mentioned a city workshop she had attended concerning areas along the fringe of the floodway and how it was a good idea to recharge those areas instead of allowing all the runoff.

GREG ALLISON said they had done a little bit of investigation, but said there was some trepidation as to whether a permeable surface was feasible due to weather conditions. He said some people aren't anxious to be the first guinea pig.

JACK VANSKIVER, 2256 N. 135TH STREET WEST asked about the setback, which he understood was ten feet. He asked how that would affect the future widening of 21st Street. He also asked if the City would eliminate the turning lanes into the YMCA and expressed concern about getting out of his driveway onto 21st Street.

GREG ALLISON said the right-of-way gave the City the ability to expand 21st Street and that the narrower set back would match what was already been built on the lot. He said there was plenty of right-of-way for road expansion.

MOTION: To approve subject to staff recommendation

ANDERSON moved, **GISICK** seconded the motion, and it carried (8-1).

BISHOP – No.

BISHOP explained that she was going to vote against the motion because she was pretty consistently opposed to development in this area. She mentioned that the parking lot is in line with the drainage swale, which drains into the floodway carrying oil, grease, and whatever else gets dumped onto the parking with it, and that increases pollution.

6. Case No.: ZON2007-13 – BATC LLC c/o Bob Armstrong (owner); Ruggles and Bohm PA c/o Chris Bohm (agent) Request Zone change from "SF-5" Single-family Residential to "TF-3" Two-family Residential on property described as;

The North half of the East half of Lot 5, Block 18 of Parkwilde Addition, Sedgwick County, Kansas. Generally located West of Florence and south of 2nd Street North (223 N. Florence).

BACKGROUND: The application area is a vacant, platted lot located on the west side of N Florence and south of 2nd Street N. The .21-acre site is zoned "SF-5", the applicant requests "TF-3" zoning to develop a duplex.

All property immediately surrounding the site is zoned SF-5 and developed with single-family residences. Southeast of the site is an SF-5 zoned church, TF-3 and MF-18, Multi-family residential zoning exist within the same block as the application area. One duplex exists within this same block, and several additional duplexes exist within a one-block radius.

CASE HISTORY: The site was subdivided as the North ½ and East ½ of Lot 5, Block 18 of the Parkwilde Addition in 1987.

ADJACENT ZONING AND LAND USE:

NORTH:	"SF-5"	Single-family residential
SOUTH:	"SF-5"	Single-family residential
EAST:	"SF-5"	Single-family residential
WEST:	"SF-5"	Single-family residential, church

PUBLIC SERVICES: N Florence is a paved 2-lane arterial with a 60-foot right-of-way at this location. All normal utilities are available at the site.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" of the Comprehensive Plan identifies this site as appropriate for "Urban Residential." The Urban Residential category includes all densities of residential development found within the urban municipality. The Unified Zoning Code (UZY) requires a minimum lot area of 3,000 square feet per residential unit in "TF-3" zoning. The application area is .21 acres or 9,000 square feet, exceeding the UZY size requirement for a duplex.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The immediate surrounding properties are zoned "SF-5" and developed with single-family residences. However, the surrounding neighborhood is a mix of residential zoning districts, and a mix of single and two-family residential development.
2. The suitability of the subject property for the uses to which it has been restricted: The site could be developed with a single-family residential use under the current zoning.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request would double the density at which the site could be developed. The affect on nearby residents could be increased traffic. However, single-family residences typically generate more traffic per unit than two-family residences. The minimum standards of the UZY should mitigate any other potential negative affects on the surrounding residential neighbors.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide" of the Comprehensive Plan identifies this site as appropriate for "Urban Residential". The Urban Residential category includes all densities of residential development found within the urban municipality.
5. Impact of the proposed development on community facilities: Traffic on the existing residential street could increase as a result of the proposed development. This site has access to 2nd Street and nearby access to West Street, a classified arterial.

MOTION: To approve subject to staff recommendation.

ANDERSON moved, **DUNLAP** seconded the motion, and it carried (9-0).

-
7. **Case No.: ZON2007-14** – Greenwich 13 LLC c/o George Laham (owner); MKEC c/o Greg Allison Request Zone change from "GI" General Industrial, "SF-5" Single-family Residential, and "LC" Limited Commercial to "LI" Limited Industrial on property described as;

A tract of land lying within a portion of the East Half of the Southeast Quarter, Section 9, Township 27 South, Range 2 East, 6th Principal Meridian, Wichita, Sedgwick County, Kansas, said tract of land being described as follows: Lot 2, Block 1, Home Bank & Trust Company Addition, an addition to Wichita, Sedgwick County, Kansas, TOGETHER WITH, a portion of the East Half of the South Half of said Southeast Quarter, EXCEPT, Lot 1, Block 1, said addition, AND subject to road right-of-way on the east and south. Said tract of land being more particularly described as follows:

COMMENCING at the South Quarter corner, thence along the south line of said Southeast Quarter on a Kansas coordinate system of 1983 south zone grid bearing of N88°53'46"E, 1322.18 feet to the west line of said East Half of the South Half and being the POINT OF BEGINNING, thence along said west line, N00°54'24"W, 592.90 feet to the north line of the south 18 acres; thence continuing along said west line N00°54'24"W, 112.11 feet to a point lying 705.00 feet north of said south line; thence parallel with said south line N88°53'46"E, 15.00 feet; thence parallel with and 15.00 feet east of said west line N00°54'24"W, 625.59 feet to the north line of the said South Half; thence along said north line N88°54'23"E, 1249.35 feet to a point lying 60.00 feet west of the east line of said Southeast Quarter; thence parallel with and 60.00 feet west of said east line S00°48'07"E, 737.48 feet to said north line of said south 18 acres; thence continuing S00°48'07"E, 242.58 feet; thence S07°43'43"W, 54.56 feet to the northeast most corner of said Lot 1, Block 1, Home Bank & Trust Company Addition; thence along the north line of said Lot 1, S88°52'07"W, 222.39 feet to the northwest corner of said Lot 1; thence along the west line of said Lot 1, S00°54'24"E, 227.30 feet to the Southwest corner of said Lot 1; thence along the south line of said Lot 2 for the next two courses, S80°24'18"W, 60.97 feet; thence S88°53'46"W, 236.92 feet to the Southwest corner of said Lot 2; thence S00°54'46"E, 60.00 feet to the south line of said Southeast Quarter; thence along said south line S88°53'46"W, 734.79 feet to the POINT OF BEGINNING, EXCEPT the south 60.00 feet thereof for road. Generally located North of 13th Street and west of Greenwich Road.

BACKGROUND: The applicant requests "LI" Limited Industrial zoning on 35.37 acres. Most of this zone change would be a down zoning from "GI" General Industrial zoning on the northern 21 acres. The southwest nine acres are zoned "SF-5" Single-family Residential, and the remaining southeastern five acres are zoned "LC" Limited Commercial. The entire site was approved by City Council in August 2006 for a zone change to "GC" General Commercial with a Commercial CUP (ZON2006-24/CUP2006-22 DP 298). This previous zone change and CUP was approved subject to platting. The property owner has not platted; therefore the zone change never became effective. The applicant now wishes to nullify the previous zone change to GC and commercial CUP, and develop the property with unspecified uses permitted under LI zoning. LI zoning would permit most land uses permitted in GC, with the exception of residential uses.

Property north of the site is zoned GI, and is used for aircraft part storage and a concrete plant. Immediately southwest of the site, at the northwest corner of 13th and Greenwich, is an LC zoned bank site. South of the site, across 13th Street North, is LI zoned aircraft manufacturing, and a test-flight runway. Also south of the site, across 13th is the LC zoned CUP DP 254 with retail uses. Southeast of the site, across 13th and Greenwich, is the LC zoned CUP DP 239, with a movie theater, bowling alley, hotel, and restaurant uses. East of the site, across Greenwich, is vacant LC zoned property within CUP DP 224, and SF-20 zoned property used for agriculture. West of the site is vacant LI zoned property requesting SF-5 zoning. Further west is the LI zoned Waterfront commercial and office development.

CASE HISTORY: The property was approved for GC zoning and a commercial CUP in August 2006. The majority of the site is unplatted, with exception of the Home Bank and Trust Company Addition Lot 2 at the southeast corner of the site, platted in 2005.

ADJACENT ZONING AND LAND USE:

NORTH:	GI	Aircraft (storage of old aircraft parts), concrete plant
SOUTH:	LI, LC	Aircraft manufacturing runway, bank, retail business, vacant
EAST:	LC, SF-20	Vacant, commercial development (southeast)
WEST:	LI	Vacant

PUBLIC SERVICES: Greenwich Road and 13th Street North are four and five lane arterial streets with a signalized intersection. Current traffic counts on this portion of Greenwich are 7,169 vehicles per day. Traffic counts on this portion of 13th are 7,387.

Other normal public services are available to the site.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" of the *Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "regional commercial" for the land zoned LC, and "employment/industry center" for remainder of the site. The employment/industry center

designation reflected the previous aircraft industry ownership, and could be used to reduce population concentrations in proximity to the accident potential from airplanes taking off immediately south of the property.

The property is located in the flight path of the aircraft-manufacturing runway, ending one-fourth mile south of 13th Street North. All of the land lies within Area A of the Airport Hazard Zone (Wichita-Sedgwick Count Airport Hazard Zoning Map) and will require FAA review (FAA Form 7460-1) for any structures.

The Unified Zoning Code (UZO) would require compatibility setbacks, buffering, and screening from any LI zoned development abutting residential zoning. The Landscape Code would require a landscape plan for development on this site. The Access Management Policy would require minimum spacing between partial and full access points.

RECOMMENDATION: This application area generates some concerns based on its location within an Airport Hazard Zone. The presence of large concentrations of people underneath a flight path poses a safety threat and a potential impact on the continued operation of the aircraft-manufacturing runway. All residential uses, uses that concentrate a large number of people and uses that attract wildlife should be of concern at this location.

In 2000, Raytheon opposed a request (ZON2000-22, CUP2000-21 DP-254) for 35 acres of LC zoning located south of the application area. Raytheon's objection was based upon the fact that "Raytheon Aircraft's runway is used primarily for flight testing operations, where safety is of utmost importance." The letter further states that expanding the extent of commercial use presents an unacceptable risk to potential inhabitants and also to the company and its air traffic. Since 2000, Raytheon sold property north of 13th Street, and have not opposed nearby development or platting for non-aircraft related activity.

The current zone change request would prohibit residential development. In addition, staff would see this zone change request as an opportunity to recommend a Protective Overlay to limit the concentrations of people on this site. However, at the recent 2006 zone change and CUP request for this site (ZON2006-24/CUP2006-22 DP 298), the Planning Commission and Governing Body declined to include conditions of approval that would limit land uses in an effort to restrict concentrations of people.

Platting the entire property, including re-platting the small platted portion, should assist in ensuring that drainage and vehicular access standards are met. Therefore, based upon the information available prior to the public hearing, staff recommends the request be APPROVED, subject to platting (to include re-platting) the entire application area within one year. This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Property north of the site is zoned GI, and is used for aircraft part storage and a concrete plant. Immediately southwest of the site, at the northwest corner of 13th and Greenwich, is an LC zoned bank site. South of the site, across 13th Street North, is LI zoned aircraft manufacturing, and a test-flight runway. Also south of the site, across 13th is the LC zoned CUP DP 254 with retail uses. Southeast of the site, across 13th and Greenwich, is the LC zoned CUP DP 239, with a movie theater, bowling alley, hotel, and restaurant uses. East of the site, across Greenwich, is vacant LC zoned property within CUP DP 224, and SF-20 zoned property used for agriculture. West of the site is vacant LI zoned property requesting SF-5 zoning. Further west is the LI zoned Waterfront commercial and office development.
2. The suitability of the subject property for the uses to which it has been restricted: The site has GI, LC, and SF-5 zoning. Each zone could be developed for uses under the current zoning. The GI zoned property would permit uses incompatible with surrounding commercial and nearby residential land uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The increase in zoning from SF-5 and LC to LI on portions of this site could result in LI land uses that would have a negative effect on nearby office, commercial, and residential development.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "2030 Wichita Functional Land Use Guide" of the *Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "regional commercial" for the land zoned LC, and "employment/industry" center for remainder of the site. The zone change request conforms to the "employment/industry" classification, but could allow uses which would not conform to the "regional commercial" designated portion of the site.

5. Impact of the proposed development on community facilities: The arterial streets bordering the site should accommodate traffic increases associated with development on this site. Conformance to the Access Management Policy through the platting process should ensure the site does not have a negative traffic impact on community facilities.

MOTION: To approve subject to staff recommendation.

ANDERSON moved, **DUNLAP** seconded the motion, and it carried (9-0).

8. Case No.: ZON2007-15 – Waterfront Residential Co, LLC c/o Kevin Mullen (owner); MKEC Engineering c/o Brian Lindebak Request Combined City and County zone change from “LI” Limited Industrial to “SF-5” Single-family Residential on 57.19 acres on property described as;

COMMENCING at southwest corner of said Southeast Quarter, thence along the west line of said Southeast Quarter N01°00'39"W, 615.00 feet to the POINT OF BEGINNING, thence continuing along said west line, N01°00'39"W, 1946.49 feet to a point lying 100.00 feet south of the north line of said Southeast Quarter; thence parallel with and 100.00 feet south of said north line, N88°54'54"E, 1326.83 feet to the east line of the West Half, of said Southeast Quarter; thence along said east line, S00°54'24"E, 1230.47 feet to the northwest corner of the Southeast Quarter of the Southeast Quarter; thence along the north line of said Southeast Quarter, N88°54'23"E, 15.00 feet; thence S00°54'24"E, 625.59 feet to a point lying 705.00 feet north of the south line of said Southeast Quarter; thence parallel with and 705.00 feet north of said south line S88°53'46"W, 1096.15 feet to a point lying 242.31 feet east of said west line; thence parallel with said west line S01°00'39"E, 89.76 feet; thence parallel with said south line S88°53'46"W, 242.31 feet to the POINT OF BEGINNING.

Said tract CONTAINS: 2,491,025 square feet or 57.19 acres of land, more or less.

Generally located One-half mile west of Greenwich Road and 1/8 mile north of 13th Street.

BACKGROUND: The applicant requests a zone change, or down zoning, on 57.19 acres from “LI” Limited Industrial to “SF-5” Single Family Residential for residential development. The site is located 600 feet north of 13th Street north and ¼ mile west of Greenwich. The unplatted, vacant property is currently used for agriculture. The site lies within Area A of the Airport Hazard Zone (Wichita-Sedgwick Count Airport Hazard Zoning Map) and will require FAA review (FAA Form 7460-1) for any structures.

North of this site is vacant “GO” General Office and “LC” Limited Commercial zoned property within DP 274, The Oak Creek Community Unit Plan. Northwest of the site is an “SF-5” Single-family Residential zoned residential subdivision. South of the application area is LI zoned property with frontage on 13th Street North. East of the site is a “GI” General Industrial concrete plant, and GI zoned property currently requesting LI zoning. West of the site is the LI zoned Waterfront Development.

CASE HISTORY: A residential subdivision plat has been filed, SUB2007-36.

ADJACENT ZONING AND LAND USE:

NORTH:	“GO”	General Office	Vacant
EAST:	“GI”	General Industrial	Concrete plant, vacant
SOUTH:	“LI”	Limited Industrial	Vacant
WEST:	“LI”	Limited Industrial	Commercial and office

PUBLIC SERVICES: The site would have access to 13th Street North, a four-lane arterial with a 100-foot right-of-way at this location. Current traffic counts on this portion of 13th Street North are 11,391 vehicles per day. This side of 13th Street North has an arterial street sidewalk.

Other normal public services are available to the site.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide” of the *Wichita-Sedgwick County Comprehensive Plan* identifies the majority of the site as appropriate for an “employment/industry,” consistent with the current LI zoning and previous ownership by aircraft industry. The western edge of this property is designated as “park and open space,” consistent with the adjacent former business owned recreation area.

RECOMMENDATION: Based upon the information available prior to the public hearing, staff recommends the request be APPROVED subject to platting within one year. This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Zoning on three sides of this property is LI or GI, with GO zoning to the north, and the nearest SF-5 subdivisions to the northwest. The proposed zoning may not in character with the surrounding zoning. However, LI zoned property to the west is developed with commercial and office uses that would not necessarily be out of character with residential development. LI zoned property to the east and south is expected to develop with commercial and office uses similar to those in the Waterfront.
2. The suitability of the subject property for the uses to which it has been restricted: This LI zoned site could be developed with any uses approved in LI zoning. LI zoning prohibits residential development, as is proposed for this site.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The requested SF-5 zoning is more restrictive than the current LI zoning. Residential zoning on this site could affect the surrounding industrial zoned property by requiring compatibility setbacks and buffers for future development on those industrial zoned properties. Also, future residents on this site may have complaints about the compatibility of land uses permitted on the abutting industrial properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: This request does not conform to the “2030 Wichita Functional Land Use Guide” designation of this site for “employment/industry” or “park and open space.” The site designation as within Area A of the Airport Hazard Zone (Wichita-Sedgwick County Airport Hazard Zoning Map) will require FAA review for any structures.
5. Impact of the proposed development on community facilities: The proposed down zoning of SF-5 should have a limited effect on community facilities. Land uses that would be permitted under the current LI zoning would have a greater effect on community facilities than the proposed residential development.

MOTION: To approve subject to staff recommendation.

ANDERSON moved, **DUNLAP** seconded the motion, and it carried (9-0).

-
9. **Case No.: CON2007-14** – Ken & Susan Lockwood Request Amendment to County CON2004-10 to expand the area of the site to allow more structures on the site; to raise the maximum number of people allowed on the site; and to extend the hours of operation to allow camping on property described as;

The East 1271.16 feet of the South 106.02 feet of the Northeast Quarter and North 608.37 feet of the East 1278.9 feet of the Southeast Quarter EXCEPT road on East, Section 15, Township 27, Range 4 West of the 6th P.M. Sedgwick County, Kansas. Generally located midway between 4th and 13th Streets North on the east side of 343rd Street West.

BACKGROUND: The applicants are requesting an amendment to a Conditional Use for “community assembly”; CON2004-10, a nonprofit birds of prey rehabilitation and educational facility (raptor facility) currently located on approximately 3.25-acres of their “RR” Rural Residential zoned 20-acre tract. As defined in the Unified Zoning Code (UZC) “an establishment that provides meeting, recreation, educational, cultural or social facilities for a membership or non-profit association...” is a community assembly. The “RR” zoning district permits “community assembly” with the approval of a Conditional Use.

The raptor facility appears to be recognized by the state and IRS as a nonprofit corporation. The applicants have provided numerous certifications and testimonies from the state and federal governments, various seminars, both Friends and KSU universities, schools, groups and individuals in regards to the raptor facility's and the applicants' good standing in regards to operational status, rehabilitation expertise and educational merits; see applicants' binder and letters of support. The applicants have stated to Staff that recent, more stringent changes in the standards to operate a raptor rehabilitation center have caused a decline in these centers and subsequently an increase in the demand for their services. This increased demand has motivated them to expand their facility, through the proposed amendment to CON2004-10. The requested amendment has also moved the three abutting southern, western and northern neighbors and one of the two adjacent east neighbors, across 343rd Street West, to send letters of protest; see attached letters.

The conditions for CON2004-10 are attached, with conditions #1 and #10 being the conditions the applicants wish to amend. The applicants' request that the facility's approved 3.25-acre site plan (#1) be allowed to expand to their property's full 20-acres, as shown on their proposed site plan(s). As shown on the proposed site plan, the expanded 20-acre site would add two additional rehab pens, an additional eagle pen, two future educational buildings, and a walking path to a proposed campsite, with the path then continuing through mostly the eastern and southern portions of the proposed 20-acre site. Condition #10 states that the hours of operation are between 10AM – 9PM, with a maximum of 35 people at any one time allowed on the site for educational programs. Currently as permitted, the raptor center is open 7-days a week. As proposed, allowing a campsite potentially means the site would be open 24-hours, 7-days a week. The applicants propose a maximum of 45-55 people at one time allowed on the site, for educational programs and/or camping. The applicants intend to integrate the proposed camping into the birds of prey educational programs. The campsite and a portion of the proposed path are located in a north to south drainage path, classified as a FEMA flood zone, with an average depth of 1-3-feet and some ponding. No structures should be put in this area, but it could be used as a temporary campsite. The provided site plan also shows the existing parking, pavilion, bathrooms, exhibit building/pen, sitting area, two pens for eagles and the applicants' residence. The site plan also shows existing plantings of trees, including pines planted along the north 2/3rd of the applicants' property line, between the raptor center and the abutting northern neighbor.

The subject site is located midway between 13th Street North and 4th Street North, on the west side of 343rd Street West. The subject site and the area around it are in an unincorporated, rural, far western portion of Sedgwick County. All properties in the area are zoned "RR." The character of the surrounding area is primarily agricultural with scattered farmsteads and large tract single-family residences. There are at least 15 single-family residences/farmsteads, including the site, located between the section defined by 13th Street North-359th Street West-4th Street North-343rd Street West. Five of these residences, including the applicants' residence, were built between 2001 and 2004. These five newest residences are located within the southeastern portion of the section. The closest residence (built 2004) to the site is on the abutting northern property, located approximately 360-feet north of the applicants' property. Agricultural land abuts the site's west side and is also adjacent, across 343rd, to its east side. A possible (see Loyd's protest letter) undeveloped 20-acre home site abuts the site's south side.

CASE HISTORY: The site contains CON2004-10, a Conditional Use for "community assembly" for a 3.25-acre nonprofit birds of prey rehabilitation and educational facility. CON2004-10 was recommended by staff and approved by the MAPC (9-0), with conditions, at their March 25, 2004 meeting. There were no protests received or filed against CON2004-10. The facility's activities/programs are for the most part conducted outside. Beginning earlier this year County Code Enforcement began receiving complaints about the raptor center from the neighbors. One of the complaints from the neighbors was that the applicants were in violation of a private restrictive covenant (see protest letters) attached to their land. Alleged violations against the restrictive covenant include the raptor center being a business, having signs and having drainage issues. The restrictive covenant's enforcement clause, directs action against any violator(s) to a "court of competent jurisdiction." The private restrictive covenant was not presented during the MAPC's consideration of CON2004-10 and staff was not aware of it. Because this is a private restrictive covenant the MAPC has no jurisdiction over it; resolution of disputes in regard to it are a civil matter. Earlier this year County Code Enforcement, County Law and Planning Staff met with the applicants to discuss the complaints and the applicants' current operation and its future. The meeting resulted in the attached letter from County Code Enforcement directing the applicant to apply for an amendment to CON2004-10 or to operate within the conditions of CON2004-10.

ADJACENT ZONING AND LAND USE:

NORTH:	"RR"	Large tract residence, agricultural, farmstead
SOUTH:	"RR"	Undeveloped tract, agricultural, farmstead
EAST:	"RR"	Agricultural/wheat

WEST: "RR" Agricultural/wheat

PUBLIC SERVICES: The subject property has direct access onto 343rd Street West, a two-lane paved Sedgwick County highway. No traffic volume information is available for this road. The subject property is outside any Rural Water service area and public sewer service is not available to serve the site. The site is served by well and septic, including those services to the raptor center's men's and women's bathrooms.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide identifies this area as "Rural." The "Rural" category is outside the City of Wichita and small cities' growth areas. It is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and larger lot residential subdivisions (with lot sizes of 2-acres or more) with provisions for individual or community water & sewer services. The UZC lists "community assembly" as a Conditional Use in multiple zoning districts, including the sites "RR" zoning, but gives no specific conditions to apply to it.

RECOMMENDATION: Although the site is located in far west, rural Sedgwick County, this particular area has, from 2003 to the present, had three Conditional Use cases considered, on two abutting properties. These cases ran somewhat counter to the two most recent (1970s and 2000) development trends of the area: large tract single-family residences. CON2003-42, abutting the applicants' western property line, proposed a 18-acre development with large single-family lots, each with hangers for private aircraft and access to a private airstrip. This request was denied by the MAPC (5-5), as recommended by staff. The property owners in the area protested CON2003-42, expressing concern over public safety issues associated with incoming and out going aircraft, aircraft noise, fires, the impact of the proposed use on cattle, horses and wildlife in the area, drainage and a loss of property value and privacy. The applicants were one of the protesters. CON2004-10 is the current applicants' original 3.25-acre raptor center, which (as previously stated) was recommended by Staff, and approved by the MAPC, without protest. The intent of CON2004-10 (as is any approved Conditional use) was to integrate a unique nonprofit educational use into rural Sedgwick County, with a minimum of negative impact in the area. As approved the center's activities are almost entirely outside.

CON2007-14, an amendment to CON2004-10, is the latest and current case. The amendment proposes an expansion of the 3.25-acre raptor center to the applicants' full 20-acres, to allow five structures for the raptor center, to expand the hours of operation to allow camping, and to increase the maximum number of people allowed on the site at any one time to 45-55 people. Based upon information available prior to the public hearings, planning staff recommends that (a) the expansion of the raptor center to the applicants' property's full 20-acres and (b) the proposed expansion of hours and camping be DENIED. Staff also recommends APPROVAL of (a) the maximum number of people allowed on the site at any one time be limited to 45 people and (b) that two additional rehab pens, an additional eagle pen, two future educational buildings be permitted, as shown on the proposed site plan. The applicants would be required to obtain all permits and inspections for structural additions to the property, and to check with the County to insure that its current septic system is adequate for the 10 additional people allowed on site at any one time. A revised site plan will be presented, reflecting the area of the raptor center to be located as generally outlined by staff on the applicants' site plan and including additional tree plantings along south sides of the proposed educational facilities.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The zoning of the subject property and all properties surrounding it is "RR." Uses and the character of the surrounding area are primarily agricultural with established large tract single-family residences and farmsteads. Since 2001 there have been five single-family residences built in the area, including the applicants' residence.
2. The suitability of the subject property for the uses to which it has been restricted: The "RR" Rural Residential zoning district is intended to accommodate agricultural uses, rural based uses that are no more offensive than normal agricultural uses, and larger lot residential development. The site's current 3.25-acre, non-profit birds of prey rehabilitation and educational facility (community assembly) was permitted by CON2004-10, with conditions. Until recent complaints CON2004-10 seemed to be working.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The intent of CON2004-10, was to integrate a unique nonprofit educational activity into rural Sedgwick County, with a minimum of negative impact in the area. The raptor's center's relative small size (3.25-acres out of 20-acres), its location within the applicants' 20-acre property, approved landscaping, spacing requirements and

other conditions provided a buffer between its mostly outdoor activities and its neighbors. This was thought to benefit the birds within the center as well as the neighbors. The proposed expansion to the property's full 20-acres removes any buffering space between the raptor center and its neighbors. The proposed camping effectively makes the center open 24-hours per day, 7 days a week, thus no down time for the neighbors in regards to relief from activity at the raptor center. Although the applicant has checked with Sedgwick County Fire (which contacted staff), it is possible that the proposed camping could increase the chances for a fire to breakout in the area. The proposed increase from a maximum of 35 people allowed on the site at one time to 45-55 people could potentially make the existing parking insufficient and lead to an increase of traffic in the area. The proposed additional structures don't seem much different than what is allowed by right on a farm in "RR: zoning, with the possible exception of the proposed educational facilities. The two proposed educational facilities could add to the raptor center's ability to continue to educate, a positive, but demand for them could push and possibly exceed the current or even proposed maximum number of people allowed on the site at any one time. As proposed the increase in time permitted on the site and increase in the number of people, at its high end off 55 people allowed on the site at any one time, decreases the neighbors' chance to enjoy their part of rural Sedgwick County. These parts of the proposed amendment to the original Conditional Use, CON2004-10, do not seem to match the intent of the original Conditional Use, as understood by staff.

4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The proposed increase in the size of the site, the possible 24-hour, 7-day a week operations time as a result of the proposed camping, the increase in the number of people allowed at any one time on the site, does not met the intent of the original Conditional Use.
5. Impact of the proposed development on community facilities: An increase in the number of people allowed on the site at any one time could lead to an increase of traffic in the area. Proposed camping on the site could likely increase the demand for safety services to the site, including the sheriff, fire and EMS.

BISHOP commented that she had received contact regarding the case; however, that would not affect her decision.

BILL LONGNECKER, PLANNING STAFF presented the staff report. He noted that the request had generated letters of support as well caused three abutting property owners and an adjacent property owner, east across 343rd, to protest the request. He also noted that several of those property owners had alleged that the applicants were in violation of a restrictive covenant on the property. He had advised the protesting property owners that covenant restrictions were private, and that the MAPC had no jurisdiction over them. He noted that resolution of it was a civil matter, and that the covenant directed disputes to a court of competent jurisdiction. He also noted that staff was not aware of the covenant during the processing of raptor center's original conditional use.

ALDRICH asked if the requested expansion would be confined to the original 3¼ acres?

LONGNECKER No. The applicant is requesting all 20-acres of his property. He then referred to the applicants' site plan, pointed out the 3.25-acre original Conditional Use area and its structures, the applicants' proposed 20-acre Conditional Use site, with additional structures, walking paths and camping area. He also pointed out staff's smaller recommended site. He mentioned that the intent of the original conditional use permit was to use the twenty acres and the location of the site as a buffer for the neighbors. He noted that the applicants' proposed site with walking paths and camping area would remove any buffering area for the neighbors.

ALDRICH asked what was the acreage of the staff's area?

LONGNECKER said he was not sure, as staff's recommended area was a concept plan and had no dimensions to indicate its size, but that it appeared to be approximately a ¼ of the 20-acres. He also noted that a new resolution for the amended Conditional Use would have to contain an accurate legal description of the site.

DOWNING commented that if it was about a quarter of the 20-acres, it was probably 5-acres or less.

GISICK mentioned that it was common to have walking paths in new subdivisions and asked if staff was trying to tell the applicants that they couldn't walk on their own property?

LONGNECKER replied they were not denying the applicant any personal use of his 20-acre-property, which included the walking paths. What staff was recommending was that the walking paths not be a part of the

applicants' proposed Conditional Use. The effect of allowing them to be part of the proposed conditional use would make the applicants' entire 20-acres the Conditional Use site.

GISICK asked about the number 45 and commented that two classes of children and any parents for oversight would exceed that number.

LONGNECKER explained that number 45 was not an arbitrary number. The applicant felt that the 45 people represented a classroom and its adult supervision.

SHERMAN asked about the option of making the walking path available only during business hours?

LONGNECKER replied that was what the applicant was requesting. He noted that the hours of operation were currently 10 am – 9 pm, seven days a week. He said that if the walking path and camping were allowed as part of the facility, the entire twenty acres would become part of the Conditional Use. He noted that if the camping was also allowed the proposed 20-acre site would essentially be open 24-hours a day, 7-days a week. The location of the original 3.25-acre site within the applicants' 20-acres itself was supposed to help buffer the neighbors from the facility. He noted that the applicants had provided numerous certifications and testimonials regarding the merit of the educational and rehabilitative services the facility provides and that the facility represented a unique educational opportunity for the community. He also noted that the neighbors had the right to enjoy their property and living in rural Sedgwick County. Staff's recommendation was an attempt to balance the two interests.

KEN LOCKWOOD, EAGLE VALLEY RAPTOR CENTER (EVRC), 927 N. 343RD STREET WEST, explained that the application requested an increase in the number of people allowed at the center at one time to 45 to allow parental supervision of the children and get parents involved. He said they would also like to construct additional pens because certain species of birds cannot be housed together. He briefly mentioned that they had received baby owls at the center as a result of the Greensburg tornado, and that they could not be housed in the same pens as hawks.

Tape 1 side 2

MCKAY (In @ 10:25 A.M.)

He presented a PowerPoint presentation with numerous pictures of various raptors and other facilities, noting the rustic cedar tone stain of the pens, and the following facilities: 24' x 32' pavilion with picnic tables to seat 50; nature and walking trail (including the beaver dam); camp site that included logs for benches; the 17' x 32' x 9' eagle pen; and garden. He also mentioned volunteer opportunities at the center. The presentation provided views of the facility from property to the south and he made several comments concerning the condition of properties surrounding the facility, including the farm implements and equipment overgrown with shrubs, grass and weeds, which, in his opinion, brought down property values more than the raptor center. He said they had spent 3 ½ years planting over 250 trees including Cottonwoods, Elms, Autumn Maples and other types to screen the facility from the neighbors. He said they take a lot of pride in how the facility is developed. He stated that staff's recommendation was acceptable and fair to them; however, he suggested that the proposed trail but cut in half, with a walk just down to the beaver dam and back, and that this part of the tour would be conducted only during the day when most people were at work.

MOTION: To give the applicant two more minutes to speak.

DUNLAP moved, **GISICK** seconded the motion, and it carried (10-0).

LOCKWOOD concluded by commenting on the peace and quiet of the area and how important that was to the birds. He said they considered their neighbors and mentioned how other things like lawn mowers and dog's barking were more disturbing than their facility. He finished by inviting everyone to come to the facility.

Responding to a question from **HENTZEN** concerning camping, **LOCKWOOD** explained that it would Boy and Girl Scout packs of about ten children pitching 4-5 tents on Friday night only.

Responding to a question from **GISICK** concerning the 45 people limit, **LOCKWOOD** said they were willing to accept that number to encourage parental interaction with the kids.

BRENDA MCCOSKY, 9408 SW PINE ROAD, ANDOVER, KS introduced two of her students, Austin and Landon, and commented on the tour her third grade Kansas science class took of the facility. She said the facility was a well kept, secure, and safe harbor for injured birds including an American bald eagle. She shared letters from the boys on the wonderful experience they had at the center.

ALAN MACCARONE, 3121 N. CROMWELL, WICHITA, KS 67204 said as Professor of Biology at Friends University, Program Director for the Masters in Environmental Studies and Faculty Advisory for the Environmental Science Program, as well as on the being on the Board of Directors for the facility, both he and his students visit the facility. He said he echoed the sentiments of the previous speaker on the high quality and level of professionalism at the facility. He said the Lockwood's "live, sleep and eat" birds. He mentioned the opportunity the center provides for students and graduate students in environmental studies. He also mentioned the educational opportunities the center provides for students of all ages and commented on a program Mr. Lockwood provided at the Earhart Environmental Magnet School.

MOTION: To give the speaker two more minutes to speak.

BISHOP moved, **GISICK** seconded the motion, and it carried (10-0).

He concluded by saying that growing up in Brooklyn, New York as a boy he had no opportunity to see wildlife and that when he moved to Wichita he thought people would be more in tune with nature and the environment, but he has found that not to be the case. He mentioned the proposed campsite and commented that any additional revenue would be turned back into the facility, which was a non-profit and could use the additional economic input.

JENINE WRIGHT, 7605 W. SHADY LANE, briefly related that a baby owl had fallen or been blown out of a tree in her backyard and that neighbors had advised her to contact the facility. She said Ken Lockwood took the owl and will keep him until he can be released. She said she learned that the owl was a 6-week-old great horned owl. She said she and her family have toured the facility and that they were extremely impressed and asked the question "what do we do if we don't have a facility like this?"

LOLA LOREDO, 7701 E. KELLOGG, COMCARE OF SEDGWICK COUNTY, said she works for Family Children Services with children who are handicapped and disabled. She said the facility was awesome and related that when her kids with ADHD toured the facility, that they were quiet as requested by Mr. Lockwood so they wouldn't scare the birds. She said the kids' change when they are at the center because she feels they identify with the birds.

CANDACE FORD, 7701 E. KELLOGG, COMCARE OF SEDGWICK COUNTY, commented that the children they deal with are emotionally disturbed and it is therapeutic for them to learn empathy and compassion towards other living things. She said Mr. Lockwood sets boundaries for behavior at the center and the children responded appropriately to him. She concluded by saying that she was thankful for the experience herself and asked the Commission to take into consideration all that the facility provides in the way of education and therapy.

SHARON SCHEFFLER, 520 S. FIRST, COLWICH, KS 67230 said she was a retired clinical social worker, who did volunteer work at the facility as well as contributing funds to it. She said she would like to affirm everything that everyone has said regarding the quality of the facility, the quiet atmosphere, and why it is required. She said she has taken friends of hers from the Red Hat Society to the facility and that learning about the environment and ecology was not only educational but also very entertaining. She said as a volunteer she does everything from pulling weeds to staining buildings and cleaning cages and that it is the highlight of her week.

KARL HEROLD, 3536 W. 2ND STREET, said he believed it would be very beneficial to allow groups to use the campsite. He said he and his wife were so impressed with the clean and attractive appearance of the center that they became volunteers. He said the main goal of the facility is to release as many raptors back into the environment as possible. He added that Mr. Lockwood does not allow any loud noise, running around or other activity that would induce stress on the birds. He concluded by saying that kids and adults learn more about nature and the surrounding environment as a result of the center and that can't be a bad thing.

DAVE KIRKBRIDE, 4114 WEST 9TH STREET, said he is President of the Teachers Association as well as a member of the Southwind Sierra Club. He said the facility is marvelous with wonderful exhibits that present a tremendous opportunity for student groups or anyone else who loves animals. He said he felt the center serves a needed function for injured wildlife and requested approval of Mr. Lockwood's request.

SHERYL SHEILS, 1013 N. 343RD STREET WEST, said she is the only existing neighbor to the north of the facility and requested that for a moment everyone forget about the birds, that this was not just about the birds. She mentioned the buses, noise, commotion, and signs associated with the center. She mentioned on-going huge tour buses and commented that the applicant was not complying with what was allowed under the current conditional use. She said because they are neighbors of the facility that they couldn't do what they wanted and what was permitted to do on their own property without getting a letter from the Lockwood's protesting their activity. She said that they had received a letter from Mr. Lockwood saying that they could shot fireworks on the 4th of July. She expressed concern that if one of the children visiting the stream (beaver dam) wanders onto their property and something happens, that they would be liable, because even though the children are supervised that "kids will be kids". She also expressed concern about depreciation of their property values since this facility was becoming a zoo. She said people pet the animals, there is a picnic shelter with public restrooms and other buildings and the center just continues to expand. She said in her opinion twenty acres was not going to be big enough for the proposed facility and suggested that the animals be taken to schools for educational programs. She concluded by reiterating her concerns about the facility sign, people, buses, public restrooms and buildings all over the property. She said there is continuous commotion at the facility. She said they do love animals, but that what is going on at the facility scares the local wildlife. She said she would like the Commission to consider other people moving near the center and what they would experience and take a second look at this proposal. She said ended by saying the tracts were marketed and sold with covenants and that this was supposed to be rural life with plenty of elbowroom. She said she appreciates and shares the Lockwood's passion for wildlife but doesn't believe the land uses are compatible and requested that the Commission not amend the conditional use.

MCKAY asked if the Eagle Valley Raptor Center was there when they moved in.

SHEILS responded yes, but at that time the center was a small one-story building and that they did not have all the other facilities there then.

SHERMAN asked where Ms. Sheil's primary residence was located and how many acres did she have?

SHEILS said they had 20-acres and that their residence was located in the middle of the property.

HENTZEN asked how many busses visit the center on a busy day?

SHEILS responded five buses.

JIM SHEILS, 1013 N. 343RD STREET WEST, said he lived next door to the Lockwood's and that in his opinion 20-acres in the middle of a residential area was not large enough for this type of facility. He said this is not about birds, that he had nothing against the birds. He said the Lockwood's keep expanding and that there is no end to it. He asked that the Commission not allow further expansion. He said it would take 35-40 years for the trees that were planted to shield the operation from their house. He said he didn't understand how people could allow a business in a residential area. He said if they planted a tree row at least 8-foot high and maybe even a fence on both sides then that would be okay. He emphasized that he had nothing against what they were doing over there, taking care of birds. He said he has received 5-6 letters from the Lockwoods, which he does not respond to, asking him not to hunt, shoot clay pigeons, or set off fireworks over the 4th because those activities scare the birds. He said those activities are perfectly legal and that he has every right to do that on his own property. He asked if the Commission approves the expansion, that they require an 8-foot tree line and fence on the north and south sides of the property.

SHARYL LOYD, 2538 HIGH POINT CIRCLE, said she owns the property to the south of Mr. Lockwood and that the neighbors had met and talked over the same concerns. She said her family had planned to build their home this year. She said when they bought in 2004 and that they didn't know of Mr. Lockwood's plans. She said the next thing they knew birdcages were going up. She said no one notified them of the first hearing, but that is history. She said the neighborhood was concerned about their liability with third grade children spending the night out there. She said they would be concerned about the Boy Scouts safety and that they didn't think it was a good idea to have campers overnight. She the neighborhood had covenants on it that prohibited commercial activity and development. She said that any City neighborhood would not be allowing this type of activity because it would be commercializing the area. She concluded by saying that the center is getting bigger and bigger and interfering with their lives, which is distressing to them and the other neighbors. She concluded by saying that they strongly opposed this requested expansion and thought it would be a big mistake.

LEROY CLASEN, 1501 VALLEYVIEW, said he owned property to the west of the facility. He said that this area is residential and that he agreed with everything that has been said against expanding the center. He requested that the Commission just leave what is there but don't allow any further development.

DUNLAP asked if he was the same Clasan that requested a residential plat to include an airport?

CLASEN responded yes.

KEN LOCKWOOD, EAGLE VALLEY RAPTOR CENTER, responded that the center usually has six to seven buses a month. He said patrons are very controlled and that they have never had anyone wander onto anyone's property. He said he requested that Mr. Sheils go to a shooting range, and not shot in his backyard. He also mentioned that there were dogs and horses on the property north of them. He said they didn't mind small fireworks, but the ones the Sheils set off shot about 40-50 feet in the air. He concluded by saying that the center was not a zoo, they didn't have parties and that they averaged maybe five to six buses a month. He said they are not a business but a non-profit organization and they were not commercial. He added that they have violated no covenants and that they didn't want to bring harm or inconvenience to the neighbors.

MOTION: To approve the requested expansion subject to staff recommendation, but to include the one pathway to the beaver dam and back and to allow up to 45 people at the site at one time. To deny overnight camping at the site.

ALDRICH moved, **ANDERSON** seconded the motion.

BISHOP asked about the zoning. She asked if a farmer had twenty acres in agricultural zoning, could he make arrangements for the Boys Scouts to camp?

LONGNECKER said that camping grounds would require a Conditional Use for outdoor recreation.

SUBSTITUE MOTION: To allow overnight camping and up to 55 people at the site at one time, in addition to all the provisions of the original motion.

GISICK moved, **BISHOP** seconded the motion, and it failed (8-2). **ALDRICH, ANDERSON, DOWNING, DUNLAP, HENTZEN, MCKAY, SHERMAN, VAN FLEET** – No.

DUNLAP commented that he thought the Lockwood's were doing a nice thing; that the facility appeared to be very successful and that he didn't think anyone could argue with that; however, he said they had been in violation of the current conditional use permit for quite some time although it may have been an oversight and not intentional. He said they were doing the right thing in the wrong place and; therefore, he would oppose the motion.

BISHOP clarified that the proposed path was to the beaver dam and back, nowhere else?

ALDRICH said that was correct.

SHERMAN asked how the proposal changed the current Conditional Use, and if the applicant could come back in the future for another amendment?

LONGNECKER explained that this amendment would increase the acreage and area of the Conditional Use site, allow more structures, and allow 10 more people on the site at anyone time. He said the applicant could apply for another amendment by going through the same process as today; however, at least one year had to elapse before another application could be filed.

VOTE ON THE ORIGINAL MOTION CARRIED (8-2).
DOWNING and DUNLAP - No

STAR Bond Plan

DOWNING announced that **ANDERSON** had some comments concerning the STAR Bond process.

ANDERSON stated that occasionally the Planning Commission is asked to make a determination as to whether or not a proposed plan is consistent with the Comprehensive Plan. He said he would like a recommendation from Planning Staff whether to approve or not approve these kinds of proposals, something other than just a resolution.

There was brief discussion.

BISHOP commented that there was a recommendation on the memo from Allen Bell, Economic Development Director.

MCKAY suggested taking the process one step further and instead of just providing a bunch of facts, statistics, and a recommendation, that staff provide information as to why the recommendation makes sense and how it is consistent with the Comprehensive Plan.

BISHOP said that would be helpful because she didn't see any connection between the STAR Bond Plan and the Comprehensive Plan.

Workshop

GISICK asked about the status of the proposed workshop.

DOWNING commented since it was decided that review of the Comprehensive Plan should start at the Advance Plans Committee, there was not much else to talk about at a workshop so it was canceled.

The Metropolitan Area Planning Department informally adjourned at 11:35 p.m.

State of Kansas)
Sedgwick County) ^{SS}

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2007.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)